

CA20N
Z 1
-66A22

BRIEF

TO

THE ROYAL COMMISSION INQUIRY

INTO

THE

WORKMEN'S COMPENSATION ACT

PRESENTED BY

ONTARIO LEGISLATIVE COMMITTEE

INTERNATIONAL RAILWAY BROTHERHOODS

AUGUST 1, 1948



Digitized by the Internet Archive
in 2025 with funding from
University of Toronto

<https://archive.org/details/31761119694214>

TO: The Honourable George Argo McGillvray

Your Lordship:

This joint committee, representing the following International Railway Organizations in the Province of Ontario,

Brotherhood of Railroad Trainmen

Brotherhood of Locomotive Engineers

Brotherhood of Maintenance of Way Employees

Brotherhood of Locomotive Firemen and Enginemen

Transportation - Communication Employees Union

appreciates the opportunity of appearing before this Commission of Inquiry into the Workmen's Compensation Act.

The representations we have been making to the Government, and which we now wish to place before you with supporting arguments, have been carefully drafted, to cover problems encountered when progressing benefit claims for the employees we have the honour to represent.

We wish to state at the outset that our committee enjoys a very harmonious relationship with officers and staff of the Ontario Workmen's Compensation Board, who are responsible for administering the Act, in providing due and just compensation to those who are disabled as a result of an accident or industrial disease during the course of their employment.

We respectfully submit for your consideration the following proposed amendments to the Ontario Workmen's Compensation Act. In doing so, we recognize that the principle on which the Act is based, extends to the workman protection for all accidents arising out of and in the course of the employment; it places the adjudication of claims in the hands of the Workmen's Compensation Board; and in most of the industries to which it applies, makes the employer's liability collective instead of individual.

WAITING PERIOD

We recommend that Section 3, Subsection (1) (a) be amended to read as follows:

" If the injury does not disable the workman longer than the day of the accident, no compensation other than medical aid shall be paid, but if injury disables the workman longer than the day of the accident compensation shall be payable from and including the day following the accident."

This proposed amendment of the waiting period to one day is in line with Workmen's Compensation Acts now in effect in Alberta, Manitoba, Newfoundland, Prince Edward Island and Saskatchewan.

At present when an employee is injured causing disablement for three days or less the workman is entitled to medical treatment but without compensation. When the disablement is for four days or more Workmen's Compensation benefits are available to the claimant. Since the purpose of the Act is to compensate the injured workman for loss of earnings, we contend there is no valid reason why the injured workman should wait longer than one day to qualify for compensation. Under the proposed amendment compensation will not be payable for disability that lasts for one day. However, if the disability lasts for a longer period, compensation shall be paid from and including the date after the accident.

During the recent hearings held before the Honourable Mr. Justice Charles W. Tysoe, into the inquiry of the British Columbia Workmen's Compensation Act, Mr. Sigler, counsel for the Board stated:

"The position of the Workmen's Compensation Board is that careful consideration be given to the elimination of the waiting period to eliminate the present period of three days, so that, administratively, the work would be made easier for the Board and be no more costly in the opinion of the Board."

We are of the opinion that this proposed amendment would not be an administrative problem and would speed up the handling of claims by avoiding many enquiries and thus would reduce overall costs.

BURIAL EXPENSES

Section 37, Subsection (I) (a). We recommend that the necessary expenses of the burial of the workman not exceed \$700.00, and in addition an allowance for the actual cost of the burial plot.

A survey indicates that the average cost of burial is increasing and the present allowance does not meet the cost of an appropriate burial. We suggest consideration be given to provide a like suitable allowance for burial of the widow as many widows who have worked to raise their families do not leave sufficient resources to provide for their burial.

PAYMENT TO WIDOW OR INVALID HUSBAND

Section 37, Subsection (I) (c). We recommend this section be amended to provide a monthly payment of \$125.00.

We believe this to be an equitable amount in view of increased living costs.

PAYMENTS FOR CHILDREN OF DECEASED WORKMEN

Amend Section 37 to provide a payment of \$60.00 per month to dependent children and \$75.00 per month to orphan children and where there are three or more dependents or orphan dependents the payments on the whole should be increased accordingly.

SECTION 41 - TEMPORARY PARTIAL DISABILITY

A workman is on a payroll and employed at the time of his accident, otherwise he would have no entitlement to benefits under the Act.

The injuries resulting from the accident have taken him completely outside the labour force and it is our contention that he should be entitled to full compensation payments until he is returned to employment. Too frequently a doctor reports an injured workman as fit for "light work" and on receipt of such report compensation payments are immediately reduced. The healing period and the disability have not matured, the man is unable to resume his usual employment or to find employment for which he is fit. No employment is offered by the employer in whose service the disability occurred. This man, still incapacitated and unemployed, is thrown onto the labour market on his own impaired resources, but with 50% or 25% of benefits being paid.

We submit that the principle of Workmen's Compensation intends that compensation be paid while the disability lasts, which should be continued until such time as he is able to resume his usual occupation.

In keeping with that principle, no such reduction in temporary disability payments as above described should be permitted.

WAGE CEILING ON WHICH COMPENSATION IS PAID

Section 44, and all other relevant sections. We believe that the wage ceiling on earnings which is considered in the computation of benefits should be abolished so as to include the yearly earnings of all workmen. No compensation is payable on earnings in excess of \$6,000.00. This limitation decreases the percentage of compensation and increases the wage loss for workmen earning in excess of that amount. There is no justification for denying equitable compensation to the injured workman whose average annual earnings exceed \$6,000.00.

EXAMPLE (presently in effect)

Annual Earnings	Allowed Percentage	Compensation Allowed	Actual Wage Loss	Actual Percentage of Earnings
\$ 6,000	75%	\$ 4,500	\$1,500	75%
\$ 6,500	75%	\$ 4,500	\$2,000	69.24%
\$ 7,000	75%	\$ 4,500	\$2,500	64.40%
\$ 7,500	75%	\$ 4,500	\$3,000	60.01%
\$ 8,000	75%	\$ 4,500	\$3,500	56.25%

One of the fundamentals enunciated by Sir William Meredith was that during periods of disability a workman should receive a percentage of his earnings. When Sir William made his report in 1914, stating an annual salary limit of \$2,000.00, he did so to differentiate between the employer and the work people. Bear in mind that most employers in those days were persons actually directing company policy and were in the main intrepeneurs. Bear in mind also that the wage rate for skilled machinists at that time, as an illustration, was approximately 11¢ per hour.

It is our contention that workmen during periods of total temporary compensable disability should receive a minimum of 80% of actual earnings. Because so many work people earn in excess of \$6,000.00 per year, at the present time their compensation payments are, in essence, only forty, fifty or possibly fifty-five percent of earnings.

The Act, and Board responsible for its administration, are the sole means for the protection of the injured workman in lieu of all common law rights.

That factor was a basic principle upon which the Act was

originally founded and it has withstood the test of time despite frequent proposals of various forms of appeal that would require litigation, contrary to the original intent and principles of the Act. Our experience with the Board for many years has indicated a desire to deal fairly, firmly and promptly in the adjudication of claims.

We are mindful of the prompt relief that can be and should be afforded disabled workers and dependents by the Board under its authority, but there is a growing lack of confidence in the Board and administration due to the recent changes that have been made.

This matter was brought to the floor of the Legislature of Ontario during the Evening Session of Monday, June 20, 1966.

During the debate mention was made of the report of the Honourable Justice Tysoe to support the new appeal system instituted during the past year. It has been our experience that this new system is delaying the adjudication of claims, thus depriving the workman of his right to benefits under the Act, causing an unnecessary hardship for the man and his family.

Mr. Justice Tysoe, in his report stated, and we quote:

"I cannot see the necessity in British Columbia of both a Board of Review and an Appeal Tribunal as in Ontario. My impression is that the former can perform the functions of both, and it is my intention that it should do so."

As Mr. Justice Tysoe did not recommend this appeal system and did support our former procedure of appeal; and as representatives of our members, we receive so many complaints of delays and etcetera, since this new system was instituted, we feel that a thorough study

should be made of the Administration, the handling of claims, and the new appeal system, to determine the cost and efficiency of same.

Respectfully submitted,

J. G. Martindale, Chairman,
Brotherhood of Locomotive Firemen
and Enginemen.

J. A. Devlin, Vice-Chairman,
Brotherhood of Maintenance
of Way Employees.

F. J. Culliton, Secretary,
Brotherhood of Railroad Trainmen.

R. F. Hounscome,
Brotherhood of Locomotive Engineers.

A. A. Maffei,
Transportation-Communication
Employees Union.

